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National Association of Regulatory Utility Commissioners

June 2, 2000

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Magalie Roman Salas,  
FCC Secretary  
Office of the Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W., TW-A325  
Washington, D.C. 20554

**RE: Ex Parte - Two Copies filed in the Proceedings Captioned:**

*In the Matter of Number Resource Optimization Docket; Connecticut DPUC Petition for Rulemaking to Amend the Commission's Rule Prohibiting Technology-Specific or Service-Specific Area Code Overlays; Massachusetts DTE Petition for Waiver to Implement a Technology-Specific Overlay in the 508, 617, 781, and 978 Area Codes; California PUC and the People of the State of California Petition for Waiver to Implement a Technology-Specific or Service-Specific Area Code, CC Docket 99-200, RM 9258; NSD File No. L-99-17; NSD File No. L-99-36, FCC 99-122 (rel. June 3, 1999)*

*In the Matter of Petition of the Oregon Public Utility Commission For Expedited Delegation Of Authority To Implement Number Conservation Measures; NSD File No. L-00-29, 2000 FCC LEXIS 2562, (rel May 18, 2000);*

*In The Matter Of Petition Of The Public Service Commission Of Kentucky's For Delegation of Additional Authority to Implement Number Conservation Measures; NSD File No. L-00-08, 15 FCC Rcd 5054; 2000 FCC LEXIS 1295, (rel. March 15, 2000);*

*In the Matter of Numbering Resource Optimization, CC Docket No. 99-200, 2000 FCC LEXIS 1691, (rel. March 31, 2000);*

*In The Matter Of the Colorado PUC's Petition For Delegation Of Additional Authority To Implement Number Resource Optimization Measures; NSD File No. L-00-16, 2000 FCC LEXIS 650, (rel. Feb 16, 2000)*

*In the Matter of the Arizona Corporation Commissions Petition for Delegation of Additional Authority to Implement Number Resource Optimization Measures; NSD File No. L-99-100, 2000 FCC LEXIS 622, (rel. Feb 14, 2000)*

*In the Matter of the Pennsylvania PUC's Petition For Delegation Of Additional Authority To Implement Number Conservation Measures; NSD File No. L-99-101, 2000 FCC LEXIS 623 (rel. Feb 14, 2000)*

*In the Matter of the Washington Utilities and Transportation Commission's Petition for Delegation of Additional Authority to Implement Number Conservation Measures; NSD File No. L-99-102, 2000 FCC LEXIS 795, (rel. Jan 31, 2000)*

*In the Matter of the Georgia PSC's Petition for Delegation of Additional Authority to Implement Number Conservation Measures; NSD File No. L-99-98, 1999 FCC LEXIS 6414, (rel. Dec 20, 1999)*

*In the Matter of the Tennessee Regulatory Authority's Petition for Delegation of Additional Authority to Implement Number Conservation Measures; NSD File No. L-99-94, 1999 FCC LEXIS 6415, (rel Dec 20, 1999)*

No. of Copies rec'd 0+0  
List A B C D E

*In the Matter of the North Carolina Utilities Commission's Petition for Delegation of Additional Authority to Implement Number Conservation Measures; NSD File No. L-99-97, 1999 FCC LEXIS 6416, (rel. Dec 20, 1999).*

*In the Matter of the Virginia State Corporation Commission's Petition for Delegation of Additional Authority to Implement Number Conservation Measures; NSD File No. L-99-95, 1999 FCC LEXIS 6417, (rel. Dec 20, 1999).*

*In the Matter of the Utah Public Service Commission's Petition for Delegation of Additional Authority to Implement Number Conservation Measures; NSD File No. L-99-89, 1999 FCC LEXIS 6063, (rel. Dec 1, 1999)*

*In the Matter of the Missouri Public Service Commission's Petition For Delegation Of Additional Authority To Implement Number Conservation Measures for the 314, 417, 573, 636, 660, and 816 area codes; NSD File No. L-99-90, 1999 FCC LEXIS 6064, (rel. Dec 1, 1999).*

*In the Matter of Petition of the Nebraska Public Service Commission's Petition Delegation of Additional Authority to Implement Number Conservation Measures for the 402 Area Code; NSD File No. L-99-83, 14 FCC Rcd 18672; 1999 FCC LEXIS 5593, (rel. Nov 4, 1999).*

*In the Matter of Petition of the Indiana Utility Regulatory Commission's Petition Delegation of Additional Authority to Implement Number Conservation Measures; NSD File No. L-99-82, 14 FCC Rcd 18674; 1999 FCC LEXIS 5594, (rel. Nov 4, 1999).*

Dear Ms. Salas:

On May 31, 2000, two Commissioners appointed to the North American Numbering Council (NANC) by the National Association of Regulatory Utility Commissioners (NARUC), *Commissioner Jack Goldberg* of the Connecticut DPUC and *Commissioner Thomas Dunleavy* of the New York Public Service Commission, joined by NARUC's General Counsel, Brad Ramsay had a number of meetings at the FCC to discuss NANC activities and related numbering issues.

*NARUC appreciates how closely the FCC and its staff has continued to work closely with the States on numbering issues. Our March 8<sup>th</sup> resolution specifically extends the entire association's "appreciation to the FCC and its staff for working closely with the States on the first set of State delegation orders and the critical issues raised by the NPRM."* There is, however, much more work to be done. Commissioners Dunleavy and Goldberg, joined by Mr. Ramsay, met with the following FCC representatives to discuss outstanding issues:

10:00	<i>Meeting With Commissioner Furchtgott-Roth and Rebecca Benyon.</i>
11:00	<i>Meeting with Commissioner Ness and Jordan Goldstein.</i>
12:00	<i>Meeting with Yog Varma, Diane Harmon, Chuck Needy and Jared Carlson.</i>
1:30	<i>Meeting with Commissioner Tristani and Sarah Whitesell.</i>
2:40	<i>Meeting with Chairman Kennard and Dorothy Attwood.</i>
3:30	<i>Meeting with Commissioner Powell and Kyle Dixon.</i>

## II. THE DISCUSSIONS IN EACH OFFICE FOCUSED ON THE FOLLOWING THEMES:

**\*\*\*Important Note – Commissioners Dunleavy and Goldberg discussed both concerns on behalf of their own state commissions and as members of NANC and also supported NARUC positions. Most of their concerns are consistent with NARUC adopted positions. Nevertheless, I've specified if NARUC has a resolution position specifically on point on each of the themes discussed.**

### **A. *FCC Should Immediately Grant All Pending State Petitions (NARUC Position)***

**THE CLOCK IS RUNNING DOWN IN MANY AREA CODES AND THE STATES' NEED FOR AUTHORITY TO TAKE ACTION SIMPLY CANNOT BE POSTPONED.** The rapid proliferation of States that have been pressured by circumstances to seek emergency numbering conservation authority from the FCC, highlight the need for rapid FCC action. Since the FCC granted the first 10 State petitions, *17 more States have filed requests seeking similar relief.* Implementation of the March Order is going to take time. There is no time left. Accordingly, the FCC should grant the remaining outstanding state petitions as a group in a single order as soon as possible.

### **B. *FCC Should Move as Quickly as Possible on the FNPRM (NARUC Position)***

**NUMBER UTILIZATION RATES:** The FCC needs to move quickly to set a utilization rate for non-pooling carriers that: (1) compels efficient numbering practices; (2) provides carriers with timely access to numbering resources for which they have demonstrated a proven need; and (3) comports with state experience in the rate of number utilization. NARUC has not yet taken a position on a specific fill rate, but discussions with member commissions suggests immediate adoption of a 75% utilization rate with an increase to an 80-85% range within the next two years will met all these objectives. A 75% utilization rate will minimize the number of stranded resources and encourage more efficient numbering practices. Maine, California, Massachusetts, New Hampshire, and New York have already adopted a 75% fill rate for all carriers. These discussions have also suggested that fill rates should apply to ALL carriers – including “poolers.”

**DEADLINE FOR WIRELESS POOLING SHOULD NOT BE EXTENDED UNDER ANY CIRCUMSTANCES:** The FCC should continue to require wireless carrier participation in pooling by November 24, 2002. The wireless industry has had more than sufficient notice of the need to make their systems not only LNP-capable but also pooling-capable. There are two years left before the deadline occurs. Wireless carriers must be given every incentive to devote the necessary resources to accomplish this task; they must not be allowed to continue to delay implementation. Wireless participation could have an enormously positive impact on the effectiveness of pooling.

### **C. *Clarification of the March Order Needed (NANC Representative Concerns).***

Neustar and Inc. have posed questions about the March Order to the FCC staff that, depending upon how they are interpreted, could significantly undercut States ability to take appropriate action under delegated authority and reduce considerably the efficacy of the FCC's proposed number allocation scheme. Commissioners Goldberg and Dunleavy suggest that rapid public clarification of those questions is needed. The Order was good first step, but it needs to be enforced. Enforcement and the State's ability to employ effective conservation measures are at the core of many of the questions submitted. Regardless of how the order is interpreted, the FCC is the final arbiter of code assignment questions. For that reason, in examining and responding to each of these questions, *the FCC should lean heavily towards giving the affected state commission*, whose members are, like their FCC counterparts, charged by statute with protecting the public interest, *more flexibility rather than shifting more authority to a third party contractor.*

***D. FCC Needs to Address the Emerging “E-Fax” Problem and Related outstanding State Requests for Technology Specific Area Code Authority. (NANC Representative Concerns)***

In some states carriers are requesting codes that are not used “in-state” but are assigned to e-faxes – which can cause premature exhaust of codes. One such carrier’s request for codes in New Hampshire has moved that state’s projected exhaust date up 4 years. Whatever the merits of any proposed pricing mechanism, which could offer a long term solution, will NOT, in any case, provide a “timely” solution. Action is needed now. The States have just begun to discuss this problem. Among the preliminary ideas suggested in these discussions is the possibility of a special area code just for such services. Certainly, in the case of wireless services the time has come to take such a step. New York implemented a service specific code for wireless back in 1991. Connecticut, California, Ohio, and other states have sought authority to implement such codes. The wireless industry, which two years ago was using, e.g., 1 of every 3 numbers allocated in Connecticut, has contributed to the exhaust problem by moving slowly to implement LNP. Carriers in other jurisdictions survive and thrive with specific code assignments, e.g., New York, Australia, etc. Certainly, one of the most powerful industries in the country today – experiencing near 40% growth rates can not be stopped or even slowed by having its own code.

***E. FCC Should Continue to Support Increased State Involvement in NANC Perhaps through Structural Changes or Opening More Slots for State Commissions (NARUC Position)***

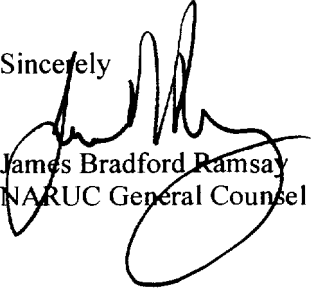
***F. NARUC N11 Guidelines Request (NARUC Position)***

At our March meetings NARUC passed a resolution urging the FCC to immediately develop guidelines for use of all N11 service codes. Specifically, the resolution states that NARUC

- (1) Supports the States’ use of 211 to allow *interim*-deployment for social service purposes, but believes the FCC should reserve 211 from any other new assignment until it develops guidelines for N11 codes use;
- (2) Recognizes the FCC may grandfather currently assigned uses of 211 for valid public interest services with universal benefit to continue until it has developed guidelines for the use of all N11 service codes, and
- (3) Urges the FCC to immediately develop guidelines for the use of N11 service codes on a nationwide basis for public services because of increased requests for public interest use and the scarcity of the codes.

NARUC respectfully requests any waivers needed to file this out-of-time. If you have any questions or comments concerning this correspondence, please do not hesitate to contact me at 202.898.2207 or [jramsay@naruc.org](mailto:jramsay@naruc.org).

Sincerely



James Bradford Ramsay  
NARUC General Counsel

Enclosures

***Resolution on the FCC's Number Conservation Rulemaking Proceeding and Pending Delegation Orders***

**WHEREAS,** The current numbering administration process for the North American Numbering Plan has proven to be inadequate and has led to the inefficient use of numbering resources and the premature assignment of new area codes; and

**WHEREAS,** The FCC has worked closely with the States and acted expeditiously on 10 state requests for additional authority to conserve numbering resources; and

**WHEREAS,** The FCC is expected to issue an order soon based on comments received in response to its June 2, 1999 Notice of Proposed Rulemaking in the Number Resource Optimization Docket, CC Docket No. 99-200, FCC 99-122 (June 2, 1999); and

**WHEREAS,** In July, 1999, NARUC passed a resolution outlining critical principles that are essential to the creation of an effective, competitively-neutral, administratively feasible numbering administration system which were filed in this proceeding within two weeks of the resolution's passage; and

**WHEREAS,** On January 20, 2000, a group of States met with the FCC to discuss numbering issues and subsequently filed proposed revisions to the "*Industry Numbering Committee (INC) Thousand Block (NXX-X) Pooling Administration Guidelines*" which were consistent with, but more specific than NARUC's previous resolution, suggesting, among other things, (1) changing permissive language to mandatory language to reduce carrier options to comply, (2) requiring the Pooling Administrator to include states in a decision-making process with the industry, instead of allowing decisions just by industry consensus, (3) changing the 9 month inventory to 6 months and the 6 month jeopardy inventory to a 3 months, (4) requiring quarterly forecasts instead of annual (and clarifying that States can require them less frequently under appropriate circumstances), and (5) requiring the pooling administrator to review carrier forecasts for reasonableness before sizing the individual pools.

**WHEREAS,** The group of States also made specific presentations on related issues, an outline of that presentation is appended to this resolution, that again were generally consistent with NARUC's original resolution, but added additional detail and reached some issues not addressed in NARUC's July comments; *now therefore be it*

**RESOLVED,** That the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC), convened in its 2000 Winter Meetings in Washington, D.C., that NARUC extends its appreciation to the FCC and its staff for working closely with the States on the first set of State delegation orders and the critical issues raised by the NPRM; *and be it further*

**RESOLVED,** That NARUC supports the specific revisions to the INC Guidelines described above and the additional proposals described in the attached addendum which were presented during the January 20, 2000 meetings between State staffs and the FCC, and urges the FCC to adopt these proposals; *and be it further*

**RESOLVED,** That NARUC urges the FCC to act this month on the NPRM, and failing that to respond as quickly as possible to outstanding State requests for additional authority to impose numbering conservation measures; *and be it further*

**RESOLVED,** That NARUC counsel is directed to file comments consistent with this resolution with the FCC.

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*Sponsored by the Committee on Telecommunications*

*Adopted by the NARUC Board of Directors March 8, 2000*

**ADDENDUM TO MARCH 2000 NUMBERING RESOLUTION**  
**OUTLINE OF POSITIONS PRESENTED BY STAFF FROM 17+ STATES DURING THE JANUARY 20, 2000**  
**MEETING WITH THE FCC**

**I. CORE POSITIONS**

- A. Unnecessary area code relief must be stopped through adoption of enforceable number conservation measures.
- B. Industry must be made accountable for use of public resources through mandatory compliance with specific rules and reporting requirements.
- C. States and NANPA need enforcement authority and states need the ability to participate in policy decisions relating to the implementation of conservation measures

**II. ADDITIONAL REQUIREMENTS RELATED TO POOLING**

- A. FILL RATES: Support the use of fill rates in tandem with a requirement that carriers show that resources will exhaust within 6 months.
- B. FACILITIES READINESS: Support requirement that carriers show readiness to provide service before numbers are allocated
- C. ACCURATE FORECASTING AT RATE CENTER LEVEL: Support requiring accurate forecasting to allow states to make reasonable relief and pooling decisions and force carriers to be more accountable.
- D. PROVISION OF UTILIZATION DATA AT RATE CENTER LEVEL: This data is key to ensuring accountability; it provides states and NANPA with data necessary to reclaim unused codes and ensure carrier compliance with guidelines and state conservation orders.
- E. SEQUENTIAL NUMBERING: Requires carriers to preserve uncontaminated thousands blocks until pooling begins to gain maximum benefits from pooling.
- F. AUDITING/COMPLIANCE AUTHORITY TO STATE and NANPA
  - (1) A neutral third-party, such as NANPA or a state commission, should conduct audits; states should not be required to conduct the audits but should be allowed to do so if resources permit. Auditing will be an important tool for ensuring compliance with the FCC's Order.
  - (2) NANPA needs clear authority and guidance - NANPA will be the front line of enforcement and they need authority to take action against carriers.
  - (3) NANPA needs to work with states - NANPA should feel comfortable meeting states' needs without feeling "disloyal" to industry
- G. OTHER ISSUES
  - (1) No prerequisite of rate center consolidation - Rate center consolidation is complex, costly, and time consuming. While it should be considered, it should not be a prerequisite to pooling.
  - (2) No distinction between urban and rural areas - FCC should not condition the availability of conservation measures on whether an area is in an urban or rural area.
  - (3) No slipping of wireless LNP deadline (11/02) - Wireless participation in pooling is essential for long-term conservation.

**III. CARRIER CHOICE OF CONSERVATION MEASURES SHOULD NOT BE ALLOWED**

**IV. STATE/FEDERAL REVIEW AND APPROVAL OF ANY INDUSTRY-DRAFTED GUIDELINES SHOULD BE REQUIRED IF THE GUIDELINES WILL BE USED BY NANPA TO ADMINISTER NUMBERS.** Currently, INC drafts and revises guidelines that are used by industry and NANPA to administer numbers. Neither FCC nor states participate directly nor do they approve the final versions. The Guidelines often have significant impact on numbering policy issues and thus it is important that both states and the FCC participate in the process.

**V. STATES SHOULD BE GIVEN AUTHORITY TO ORDER UNASSIGNED NUMBER PORTABILITY (UNP) WHEN STATE SPECIFIC CIRCUMSTANCES WARRANT.** The porting between carriers of Telephone Numbers that are yet unassigned to customers (i.e., unassigned number porting or UNP) is one resource management tool that could preclude the need for a carrier to obtain larger, and potentially unused, blocks of numbering resources directly from the NANPA. Therefore, granting the states the authority to order UNP, when state specific circumstances warrant, is clearly in the public interest.